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J. Philip Miller
President

February 23, 1999

Sayuri Rajapakse
Attorney-Advisor
Office of Policy and International Affairs
U.S. Copyright Office
Copyright GC/I&R
P.O. Box 70400, Southwest Station
Washington, DC 20024

Re: "Promotion of Distance Education Through Digital Technologies."

Dear Ms. Rajapakse:

As one of the world's leading publishers of college-level textbooks in the Humanities and Social Sciences, we applaud the Copyright Office study regarding possible changes to U.S. Copyright Law in order to promote distance education through digital technologies. We strongly support the promotion of distance education opportunities that can make our materials available to an even wider audience. We believe, however, that the broad statutory exemptions sought by the educational and library communities will only undermine rather than support that end. In addition, we believe that given the infancy of this technology, all participants in the distance learning process -- educators, schools, publishers, students, authors, on-line providers -- need to experiment further with different models for licensing, fair use, and application of the existing copyright law, in order to make appropriate decisions about any changes to the law.

Our company itself provides eloquent testimony to the variety of possibilities created by distance learning and our experiments with them. My division is currently investing a great deal of time, money, and creative energy in the creation of a new online product for distance learning courses in introductory Psychology. We have tentative plans to create more such products in the near future. Granting a new "distance education" exemption that would allow performance, display and distribution of all kinds of copyrighted works in digital formats without permission from the copyright owners would undermine this vital experimentation in its infancy.

In addition, it is important to understand the significant investment that educational publishers make in the materials that they prepare for the traditional classroom as well as the distance learning market. A typical textbook sold by our company also includes ancillaries such as teacher guides, testing materials -- including on-line assessment -- CD ROMs, study guides, related video materials, transparencies, and other materials for educational. If all of these materials, created at great expense by the publishers, can be further transmitted by a purchaser in their entirety to unlimited numbers of students engaged in "distance learning" or "lifelong learning," publishers will no longer be able to afford to make those materials available. Please remember: as educational publishers the education market is our market. Even if educators and the librarians will not themselves be profiting directly by the distribution of our materials, their distribution without our consent will greatly harm the primary market protected by the copyright laws.

In recognition of these factors, and the vital role that copyright plays in encouraging creativity, Congress has always crafted very narrow exemptions to the rights of copyright owners. To abandon that cautious approach at this time, in the infancy of this new technology, would be premature and totally counterproductive.

Sincerely,

J. Philip Miller